

STAFF REPORT

File Number
CP 03-069

Application Type
Conditional Use Permit

Council District
6

Planning Area
Willow Glen

Assessor's Parcel Number(s)
439-10-070, -072

PROJECT DESCRIPTION

Completed by: Carol Hamilton

Location: Southwest Corner Lincoln Avenue and Clark Way

Gross Acreage: 0.73

Net Acreage: 0.73

Net Density: N/A

Existing Zoning: R-1-8 Single-Family and R-2
Two-Family Residence

Existing Use: Religious Assembly

Proposed Zoning: No change

Proposed Use: Religious Assembly

GENERAL PLAN

Completed by: CH

Land Use/Transportation Diagram Designations:
Medium Low Density Residential (8 DU/AC) and Medium Density Residential (8-15 DU/AC)

Project Conformance:
☒ Yes ☐ No
☐ See Analysis and Recommendation

IMMEDIATE SURROUNDING LAND USES AND ZONING

Completed by: CH

North: Single-Family Residential

R-1-8 Residence and R-2 Residence

East: Single-Family Residential

R-2 Residence

South: Duplex and Single-Family Residential

R-1-8 Residence and R-2 Residence

West: Single-Family Residential

R-1-8 Residence

ENVIRONMENTAL STATUS

Completed by: CH

Environmental Impact Report found complete

☒ Exempt

Negative Declaration circulated on

☐ Environmental Review Incomplete

Negative Declaration adopted on

LOCAL HISTORY

Completed by: CH

Exemption Title: Willow Glen

Date: 10/01/1936

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval
☐ Approval with Conditions
☐ Denial

Date: _____

Approved by: _____
☐ Action
☐ Recommendation

APPROVER

APPLICANT/DEVELOPER

Miris Nilson, President
First Church of Willow Glen
108 Clark Way
San José, CA 95110

Justine Leong
Bill Gould Design
394-A Umbarger Road
San José, CA 95111

JBLIC AGENCY COMMENTS RECEIVEDCompleted by: Carol Hamilton

ee attached memoranda from the Fire and Public Works Departments

GENERAL CORRESPONDENCE

One received

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, the Stone Church of Willow Glen, is requesting a Conditional Use Permit to allow expansion and interior modification of the existing religious assembly building, the conversion of a single-family residence (Lincoln House) to religious assembly use, and associated site and building improvements. The religious assembly use was implemented before the requirement for a Conditional Use Permit and is considered legal non-conforming. Expansion of a legal non-conforming religious assembly use and conversion of a single-family residence to religious assembly use require a Conditional Use Permit in the subject R-2 and R-1-8 Residence Districts. The Conditional Use Permit will also serve as a Site Development Permit for modifications to the existing building and site.

Modifications to the church complex include reconfiguration of interior space, expansion of the social hall by enclosing a portion of the arcade at the front of the building, the addition of handicap ramps and modifications to the rear façade of the building. Modifications to the Lincoln House include re-roofing the building (using wood shingle at the front and composition shingle at the rear), the addition of a handicap ramp at the front entrance, replacement and reconfiguration of windows and doors at the side and rear of the building and construction of a deck and handicap ramp at the rear of the site. Modifications to the site include removal of an ordinance-size tree located in the front setback of Lincoln House; construction of a trash enclosure; and installation of condensers, a transformer, and fencing.

Existing Site Conditions and Context

The site consists of two parcels, a 0.58-acre parcel located directly at the corner of Lincoln Avenue and Clark Way and an adjacent 0.15-acre property which fronts onto Lincoln Avenue. Located on the larger parcel, the church complex is oriented to Clark Way, while Lincoln House on the smaller parcel, is oriented to Lincoln Avenue. Three curb cuts provide vehicular access to the site from Lincoln Avenue, two associated with a loading area adjacent to the church building and a third accessing a single-family driveway located adjacent to Lincoln House. A single curb cut on Clark Way accesses four parallel parking spaces located along the westerly property line. The site landscaping includes a number of mature trees along the Clark Way and Lincoln Avenue frontages.

An historical and architectural analysis prepared for the church complex and the Lincoln House by Franklin Maggi using the City's rating system, indicates that both the church complex, with a score of 79, and Lincoln House, with a score of 69, qualify for the National and California Registers based on their distinctive architecture. Both the church and house also qualify for listing on the City of San José Historic Resources Inventory and the church building is eligible as a City Landmark.

The Lincoln House building was constructed approximately 20 years prior to construction of the original church building. The church complex was built in three phases, beginning with the chapel in 1946, continuing with the addition of the social hall 1949/50 and concluding with the construction of the sanctuary 1955. The architectural style of the complex is Modern Ecclesiastical with Mission Revival influences. The chapel and sanctuary wings of the church are connected by the social hall in a u-configuration that wraps around a front courtyard. Notable features of the building include the use of Carmel stone and red tile roofing, a prominent arcade feature facing the flagstone courtyard, deeply inset windows, a stone bell tower and stained glass windows. Lincoln House was constructed as a residence in the late 1920's in the French Eclectic Revival style and includes a number of unique elements associated with the style, including the steeply pitched roof and flared eaves, the towered entry with arched opening, and the rounded windows with small leaded panes that frame the large picture windows.

The site is surrounded on the north, east and west by single-family residences and on the south by single-family residences and a duplex. The rear yard of a single-family residence located immediately south of the subject site and owned by the church, has been integrated into the church campus through interconnecting landscaping and pedestrian walkways.

Permit History

The original church complex is legal non-conforming in that it was constructed prior to the requirement for a Conditional Use Permit for a religious assembly use and prior to the current parking requirements. The Lincoln House, which was originally constructed as a single-family residence, has been used for church purposes for many years. Temporary use of the Lincoln House for Sunday school was approved through Zoning Adjustments in July 1964 and 1965. The second of these Adjustments expired in July of 1966. It appears that the site has been used by the church since that time without benefit of the required permit. The current Conditional Use Permit application proposes to bring the site into conformance with the permit requirements of the Zoning Code.

ENVIRONMENTAL REVIEW

The Director of Planning has determined that this project is exempt from environmental review under the provisions of the California Environmental Quality Act pursuant to Section 15332 which pertains to infill development projects that are consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; occur within city limits on a project site of no more than five acres substantially surrounded by urban uses; located on a site that has no value as habitat for endangered, rare or

threatened species; would not result in any significant effects relating to traffic, noise, air quality, or water quality; and located on a site that can be adequately served by all required utilities and public services such as that which is proposed. This proposal to expand an existing religious assembly use conforms to the Medium Density Residential (8-16 DU/AC) General Plan and R-2 and R-1-8 Zoning designations of the site, occurs within the City limits on a 0.73 gross acre site, is surrounded by urban uses, does not affect any threatened species, can be adequately served by all required utilities and public services, and results in no significant environmental effects. The project architect has provided an analysis which concludes that the proposed modifications to the existing historic buildings conform to the State of California Secretary of the Interior Standards. A report prepared by a qualified arborist indicates that the deodora cedar proposed for removal is hazardous due to the potential for branch failure. Staff has included a condition in the Permit requiring replacement of the tree proposed for removal in conformance with the City's standard replacement ratios. Based on this analysis, staff concludes that the proposed minor expansion of use qualifies for the Section 15332 CEQA exemption.

GENERAL PLAN CONFORMANCE

The site has a General Plan Land Use/Transportation Diagram designation of Medium Low Density Residential (8DU/AC) and Medium Density Residential (8-16 DU/AC). The proposed modification and expansion of the church facilities and site is consistent with these General Plan designations.

COMMUNITY OUTREACH

A community meeting was held for the project on February 26, 2004. Those in attendance were generally supportive of the proposed project; however, concerns were raised regarding the need for additional parking, the potential for demolition of existing houses to provide additional parking and concern regarding the impacts of the proposed project on adjacent uses. A neighbor of the subject site contacted staff to express concern that the prior problems with church use of the single-family residential property at 1109 Roycott Avenue might occur again. Notices of the public hearing were mailed to property owners within 500 feet of the project site. Staff has been available to discuss the proposal with members of the public.

ANALYSIS

The primary issue for this project is conformance with Title 20 parking requirements and land use compatibility.

Conformance with Title 20 Parking Requirements

The church was constructed before the Zoning Code (Title 20 of the City of San José Municipal Code) required religious assembly uses to provide parking; consequently, the facility is considered to be legal non-conforming for parking. Under the Section 20.90.210 of the current Zoning Code, no structure or use constructed or instituted prior to November 10, 1965, is required to meet the current off-street parking requirements unless there is a substantial change in the structure or use. The Code defines a substantial change as an expansion that increases the parking

requirement (based on current Title 20 parking ratios) by more than 15 percent. The current Code bases parking for religious assembly uses on the total assembly areas that are used concurrently, or if assembly areas are not used concurrently, on the assembly area with the greatest parking requirement. The applicant has indicated that the church does not use the sanctuary and the social hall concurrently. The parking requirement for the church sanctuary is greater than that of the expanded social hall. No expansion of the sanctuary is proposed; consequently, staff concludes the project does not constitute a “substantial change” and that no additional parking is required pursuant to Title 20.

Land Use Compatibility

The primary land use compatibility issue for this site involves the relationship between the church and a residence (the “Roycott House”) owned by the church and located adjacent to the rear of the subject site at 1109 Roycott. In the early 60’s the Planning Commission approved revocable Zoning Adjustments to allow use of the Roycott House for church purposes for one year. The last of these Adjustments expired in 1966. In 1969, the Commission denied a Part 3 Exception Permit to allow use of the property for youth activities and the church was required to remove a parking lot constructed at the rear of the property. Since that time, Code Enforcement has received additional complaints regarding use of the property for church purposes. Although the residence is currently occupied by a tenant, most of the rear yard has been incorporated into the church campus through landscaping and paths that are integrated with those of the primary church site and the Lincoln House property (see attached Exhibit A). The applicant has indicated that the church does not currently use this residential property for church uses and has proposed a four-foot fence without gates to clearly separate the church site from the residential rear yard.

Staff has received no complaints regarding existing use of the Lincoln House for church purposes. The low intensity nature of the proposed office use and the orientation of the building to Lincoln Avenue make it a good candidate for inclusion in the church campus.

Other proposed modifications to the church facilities and site have been designed and conditioned to enhance the site’s compatibility with the surrounding neighborhood. The trash enclosure has been located away from adjacent residential uses; proposed condensers have been conditioned to conform to recommended General Plan noise levels of 55 dB DNL at the adjacent residential property line; and the applicant has proposed to install gates at the southwesterly corner of the site to restrict access to the rear of the church. Staff has also included a condition in the Permit requiring the applicant to remove unpermitted lighting from the roof of the church building to ensure that such lighting does not impact adjacent residential uses.

Based on the above analysis, staff concludes that the proposed project will enhance the church’s compatibility with the surrounding neighborhood.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Medium Low Density Residential (8 DU/AC) and Medium Density Residential (8-16 DU/AC) on the adopted San José 2020 General Plan Land Use/Transportation Diagram, and the proposed use is consistent with these designations.
2. Under the provisions of Section 15332 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.
3. This application is proposed allow expansion and interior modification of an existing religious assembly building, the conversion of a single-family residence (Lincoln House) to religious assembly use, and associated site and building improvements.
4. The religious assembly use was implemented before the requirement for a Conditional Use Permit and is considered legal non-conforming. Expansion of a legal non-conforming religious assembly use and conversion of a single-family residence to religious assembly use require a Conditional Use Permit in the subject R-2 and R-1-8 Residence Districts. The Conditional Use Permit will also serve as a Site Development Permit for modifications to the existing building and site.
5. Modifications to the Church complex include reconfiguration of interior space, expansion of the social hall by enclosing a portion of the arcade at the front of the building, the addition of handicap ramps and modifications to the rear façade of the building. Modifications to the Lincoln House include re-roofing the building (using wood shingle at the front and composition shingle at the rear), the addition of a handicap ramp at the front entrance, replacement and reconfiguration of windows and doors at the side and rear of the building and construction of a deck at the rear of the site. Modifications to the site include removal of an ordinance-size tree located in the front setback of Lincoln House; construction of a trash enclosure; and installation of condensers, a transformer, and fencing.
6. The subject site consists of two parcels, a 0.58-acre site located directly at the corner of Lincoln Avenue and Clark Way and an adjacent 0.15-acre property which fronts onto Lincoln. Located on the larger parcel, the church complex is oriented to Clark Way, while Lincoln House on the smaller parcel, is oriented to Lincoln Avenue. Three curb cuts provide vehicular access to the site from Lincoln Avenue, two associated with a loading area adjacent to the church building and a third accessing a single-family driveway located adjacent to Lincoln House. A single curb cut on Clark Way accesses four parallel parking spaces located along the westerly property line. The site landscaping includes a number of mature trees along the Clark Way and Lincoln Avenue frontages.
7. An historical and architectural analysis prepared for the church complex and the Lincoln House by Franklin Maggi using the City's rating system, indicates that both the church complex, with a score of 79, and Lincoln House, with a score of 69, qualify for the National

and California Registers based on their distinctive architecture. Both the church and house also qualify for listing on the City of San José Historic Resources Inventory and the church building is eligible as a City Landmark.

8. The site is surrounded on the north, east and west by single-family residences and on the south by single-family residences and a duplex. The rear yard of a single-family residence located immediately south of the subject site and owned by the church, has been integrated into the church campus through interconnecting landscaping and pedestrian walkways.
9. The original church complex is legal non-conforming in that it was constructed prior to the requirement for a Conditional Use Permit for a religious assembly use and prior to the current parking requirements. The Lincoln House, which was originally constructed as a single-family residence, has been used for church purposes for many years. Temporary use of the Lincoln House for Sunday school was approved through Zoning Adjustments in July 1964 and 1965. The second of these Adjustments expired in July of 1966. It appears that the site has been used by the church since that time without benefit of the required permit. The current Conditional Use Permit application proposes to bring the site into conformance with the permit requirements of the Zoning Code.
10. The church was constructed before the Zoning Code (Title 20 of the City of San José Municipal Code) required religious assembly uses to provide parking; consequently, the facility is considered to be legal non-conforming for parking. Under the Section 20.90.210 of the current Zoning Code, no structure or use constructed or instituted prior to November 10, 1965, is required to meet the current off-street parking requirements unless there is a substantial change in the structure or use. The Code defines a substantial change as an expansion that increases the parking requirement (based on current Title 20 parking ratios) by more than 15 percent. The current Code bases parking for religious assembly uses on the total assembly areas that are used concurrently, or if assembly areas are not used concurrently, on the assembly area with the greatest parking requirement. The applicant has indicated that the church does not use the sanctuary and the social hall concurrently. The parking requirement for the church sanctuary is greater than that of the expanded social hall. No expansion of the sanctuary is proposed; consequently, staff concludes the project does not constitute a “substantial change” and that no additional parking is required pursuant to Title 20.
11. A residence (the “Roycott House”) located adjacent to the rear of the church facility at 1109 Roycott is owned by the church. In the early 60’s the Planning Commission approved revocable Zoning Adjustments to allow temporary use of the Roycott House for church purposes. The last of these Adjustments expired in 1966. In 1969, the Commission denied a Part 3 Exception Permit to allow use of the property for youth activities and the church was required to remove a parking lot constructed at the rear of the property. Since that time, Code Enforcement has received additional complaints regarding use of the property for church purposes. Although the residence is currently occupied by a tenant, most of the rear yard has been incorporated into the church campus through landscaping and paths that are integrated with those of the primary church site and the Lincoln House property (see attached Exhibit A). The applicant has indicated that the church does not currently use this residential property for church uses and has proposed a four-foot fence without gates to clearly separate

the church site from the residential rear yard.

12. The City has received no complaints regarding use of the Lincoln House for church purposes.
13. Proposed modifications to the church facilities and site have been designed and conditioned to enhance the site's compatibility with the surrounding neighborhood. The trash enclosure has been located away from adjacent residential uses. Proposed condensers have been conditioned to conform to recommended General Plan noise levels of 55 dB DNL at the adjacent residential property line. The applicant has proposed to install gates at the southwesterly end of the site to restrict access to the rear of the Church site. The Permit includes a condition requiring the applicant to remove unpermitted lighting from the roof of the church building.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project conforms to the City's General Plan.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.
4. The proposed project is compatible with the surrounding neighborhood.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The condition of the tree(s) with respect to disease, danger of falling, proximity to existing or proposed structures, and/or interference with utility services is such that public health or safety requires removal in that the tree shows evidence of disease and decay.
2. The proposed use at the location requested will not:
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
3. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
4. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and

quality of traffic such use would generate; and

- b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.
2. **Plan Revisions.** Within 60 days of the issuance of this permit and prior to recordation, the applicant shall revise the project plans to include the item(s) listed below to the satisfaction of the Director of Planning. Failure to provide said revisions within 60 days shall render this permit null and void.
 - a. Provide details of proposed lighting.
 - b. Specify details of colors and materials on elevations.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed

the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.

2. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
3. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "Stone Church of Willow Glen" dated November 17, 2003 and as revised in Precedent Condition No. 2 above, on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24).
4. **Building Permit.** Obtainment of a Building Permit is evidence of acceptance of all conditions specified in this document and the applicant's intent to fully comply with said conditions.
5. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
6. **Discretionary Review.** The Director of Planning maintains the right of discretionary review of requests to alter or amend conditions or restrictions of this Conditional Use Permit incorporated by reference in this Permit in accordance with Section 20.44.200 of the San José Municipal Code.
7. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
8. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
9. **Storm Water Discharge.** The applicant shall conform to the Non-Point Source Control requirement for storm water discharge associated with construction activity as required by the State Water Resource Control Board. Contact the Regional Water Quality Control Board at (415) 286-0968 for further information.
10. **Concurrent Use of Assembly Areas.** The church shall not use the sanctuary and social hall concurrently.
11. **Lighting.** On-site lighting shall be designed, controlled, and maintained so that no light source is

visible from outside of the property.

12. **Removal of Roof Lights.** The applicant shall remove the roof lights at the rear of the church complex within 90 days of approval of this permit. Any future changes to site lighting shall require permits as deemed necessary by the Director of Planning.
13. **Colors and Materials.** All colors and materials are to be those specified on the approved plan set.
14. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
15. **Construction Conformance.** A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.
16. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. No outdoor storage is allowed unless designated on the approved plan set. Trash areas shall be maintained in a manner to discourage illegal dumping.
17. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, CP 03-069, shall be printed on all construction plans submitted to the Building Division.
 - b. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - c. *Americans With Disabilities Act.* The applicant shall provide appropriate access as required by the Americans With Disabilities Act (ADA).
 - d. *Street Number Visibility.* Street numbers of the buildings shall be easily visible at all times, day and night.
 - e. *Lock Boxes.* The project developer shall provide lock boxes to the satisfaction of the Chief Building Official and the Fire Chief.
18. **Fire Safety.** The applicant shall meet all requirements of the Fire Department at the Building Permit stage.
19. **Street Cleaning and Dust Control.** During construction, the developer shall damp sweep

the public streets each working day or as necessary to keep them free of visible dust and debris. On-site areas visible to the public from the public right-of-way shall be kept free of debris, rubbish, and trash. While the project is under construction, the developer shall implement effective dust control measures to prevent visible dust and other airborne matter from leaving the site.

20. **Construction Impact Mitigation Measures.** The applicant shall ensure that the following construction impact mitigation measures are implemented throughout the duration of all construction activities associated with this project and related off-site construction work. Failure to comply with these conditions by the applicant, their contractors or subcontractors shall be cause for shutdown of the project site until compliance with the following conditions can be ensured by the City.

- a. *Notification.* Prior to construction activities, the applicant shall send a letter to all property owners and tenants of property adjacent to or across the street from the subject site. The letter shall include information about construction hours, hours of deliveries, anticipated project start date and timeline and shall provide a contact phone number for the project's designated disturbance coordinator. A copy of the letter (referencing the file number of this permit) shall be provided to the Planning Division.
- b. *Construction Hours.* Construction will be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
- c. *Construction Deliveries.* Deliveries shall not occur outside the above construction hours. All deliveries shall be coordinated to ensure that no delivery vehicles arrive prior to the specified hours to minimize disruption of nearby residents.
- d. *Construction Employees.* Construction workers shall not arrive to the site until the opening of the project gates. The applicant shall designate a location that is not immediately adjacent to residential units for workers to wait prior to the opening of the project gates.
- e. *Plans.* The construction hours shall be printed on all plans for the project used to construct the project.
- f. *Disturbance Coordinator.* A disturbance coordinator shall be identified by the developer for this project. The disturbance coordinator shall be responsible for ensuring compliance with the hours of construction and construction mitigation requirements of this Permit.

21. **Hazardous Materials.** Any hazardous materials regulated by Chapter 17.68 of the San José Municipal Code on the site must be used and stored within approved buildings and/or within areas specified on the approved plan set, if any, in full compliance with the City's Hazardous Material Ordinance and the Hazardous Materials Management Plan for the site approved by the San José Fire Prevention Bureau.

22. **Tree Removal on Private Property.** One deodora cedar tree is approved for removal with this Permit. No additional tree larger than 56 inches in circumference, at a height of 24 inches above the natural grade slope, shall be removed without a Tree Removal Permit issued by the Director of Planning.
23. **Building Permits.** The applicant shall obtain building permits for the proposed uses and improvements as required by the Chief Building Official.
24. **Noise Limits.** Noise generated by the proposed use (including air conditioning equipment) shall not exceed 55 dB DNL at any property line adjacent to a property used for residential purposes.
25. **Tree Replacement.** The applicant shall replace the tree proposed for removal with four, 24-inch box specimen trees. The trees shall be planted on the site or in the surrounding area to the satisfaction of the Director of Planning.
26. **Construction Proximate to Existing Trees.** Construction in the vicinity of existing trees shall occur under the direction of a qualified arborist.
27. **Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department, Room 308, (408) 277-5161, and is subject to the following requirements (3-16657) to the satisfaction of the Director of Public Works:
 - a. **Flood: Zone AO, Depth 1'.** Project must comply with the City's Substantial Improvement Policy for improvements to existing structures in a Special Flood Hazard Area. Submit a cost estimate of the proposed improvements and, if available, a document showing the market value of the existing structures. If the cost of the proposed improvements exceed 50% of the market value of the existing structure, it will be considered a substantial improvement and the entire structure must fully comply with the following City Floodplain Management requirements:
 - 1) Elevate the lowest floor, including basement, to 1 foot above the highest existing adjacent grade to the proposed structure.
 - 2) An Elevation Certificate (FEMA Form 81-31) for each structure, based on construction drawings, is required prior to issuance of a building permit. Consequently, after the improvement is completed, an Elevation Certificate for each structure is required prior to issuance of an occupancy permit.
 - 3) Building support utility systems such as HVAC, electrical, plumbing, air conditioning equipment, including ductwork, and other service facilities must be elevated above the base flood elevation or protected from flood damage.
 - b. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due

and payable.

- c. **Street Improvements.** Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project. Remove and replace broken or uplifted curb, gutter, and sidewalk along project frontage.

28. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings, fences, and wall surfaces within 48 hours of defacement.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.